

CANNABIS CONTROL COMMISSION REGULATIONS FOR ADULT USE MARIJUANA 935 CMR 500.00

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CANNABIS CONTROL COMMISSION REGULATIONS

935 CMR 500.00

- On March 6, 2018 the Cannabis Control Commission voted its final regulations for Adult Use of Marijuana.
- The regulations became effective on March 23, 2018 upon publication in the Massachusetts register.
- The regulations can be found at 935 CMR 500.00



TYPES OF LICENSED ADULT USE MARIJUANA

Types of Adult-Use Marijuana Establishments as defined in 935 CMR 500.00

- Marijuana Establishment means:
 - "Marijuana cultivator"
 - "Marijuana retailer"
 - "Marijuana product manufacturer"
 - "Independent testing laboratory"
 - Any other type of licensed marijuana-related business
 - NOT a Medical Marijuana Treatment Center



OTHER TYPES OF LICENSED ADULT USE MARIJUANA

Additional types of Licensed Marijuana Establishments

The CCC Regulations add the following types of adult use marijuana establishments

- Craft Marijuana Cultivator Cooperative
- Microbusiness
- Third party transporter
- Existing Licensee Transporter



TYPES OF MARIJUANA ESTABLISHMENTS

Marijuana Cultivator means an entity licensed to:

- ❖ Cultivate marijuana,
 - ❖ process and package marijuana,
 - ❖ transfer marijuana to other Marijuana Establishments, but not to consumers.
- A **Craft Marijuana Cooperative** is a type of Marijuana Cultivator.



TYPES OF MARIJUANA ESTABLISHMENTS

Marijuana Cultivator

Each licensee (except a craft marijuana cooperative) may have up to 3 cultivation licenses; the total canopy authorized by the licenses added together may not exceed 100,000 square feet.

- Tier 1: up to 5,000 square feet Tier 7: 50,001 to 60,000 sq. ft.
 - Tier 2: 5,001 to 10,000 sq. ft. Tier 8: 60,001 to 70,000 sq. ft.
 - Tier 3: 10,001 to 20,000 sq. ft. Tier 9: 70,001 to 80,000 sq. ft.
 - Tier 4: 20,001 to 30,000 sq. ft. Tier 10: 80,001 to 90,000 sq. ft.
 - Tier 5: 30,001 to 40,000 sq. ft. Tier 11: 90,001 to 100,000 sq. ft.
 - Tier 6: 40,001 to 50,000 sq. ft.
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- ❖ To expand production, licensee must demonstrate it has sold 85% of its product consistently over the six months preceding the application for expanded production.
 - ❖ The Commission may reduce the licensee's maximum canopy to a lower tier if the licensee sold less than 70% of what it produced.

TYPES OF MARIJUANA ESTABLISHMENTS

Craft Marijuana Cultivator Cooperative

- Must be Massachusetts Residents
- Organized as a limited liability company, limited liability partnership, or cooperative corporation
- Licensed to cultivate, obtain, manufacture, process, package and brand marijuana and/or marijuana products
- May transport to Marijuana Establishments – not consumers
- Only one craft marijuana cultivator cooperative license may be issued per business entity
 - Not limited in the number of cultivation locations it may operate
 - Limited to cultivating 100,000 square feet of canopy.
 - The cooperative may also conduct activities authorized for Marijuana Product Manufacturers at up to three locations.

TYPES OF MARIJUANA ESTABLISHMENTS

Marijuana Product Manufacturer

An entity authorized to:

- obtain
- manufacture
- process; and
- package marijuana and marijuana products



May also deliver marijuana and marijuana products to marijuana establishments and transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

TYPES OF MARIJUANA ESTABLISHMENTS

Marijuana Retailer

An entity authorized to:

- purchase and deliver marijuana and marijuana products from marijuana establishments
- deliver, sell and transfer to marijuana establishments and to consumers.
- May be co-located with a medical marijuana treatment center.



TYPES OF MARIJUANA ESTABLISHMENTS

Marijuana Research Facility

- An academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts.
- May cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products.
- A research facility may not sell marijuana cultivated under its research license



TYPES OF MARIJUANA ESTABLISHMENTS

Independent Testing Laboratory

- accredited by a third-party accrediting body or that is otherwise approved by the Commission;
- independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
- qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Standards Testing Laboratory

- An entity that would otherwise qualify to be an independent testing laboratory but instead performs blind tests to verify the results of an independent testing laboratory at the request of the Commission.

TYPES OF MARIJUANA ESTABLISHMENTS

Marijuana Transporter

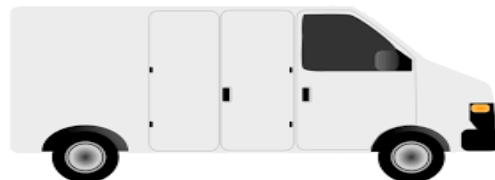
An entity may only transport marijuana or marijuana products when such transportation is not already authorized under a marijuana establishment license if it has a Marijuana Transporter license.

Third Party Transporter

Does not hold another marijuana establishment license and is not registered as a registered marijuana dispensary pursuant to 105 CMR 725.000.

Existing Licensee Transporter

A Marijuana Establishment that contracts with other Marijuana Establishments to transport their marijuana and marijuana products to other establishments.



TYPES OF MARIJUANA ESTABLISHMENTS

Marijuana Micro-Business

- A microbusiness is a co-located Tier 1 marijuana cultivator and/or marijuana product manufacturer.
- May not have an ownership stake in any other marijuana establishment
- Majority of its executives or members must have been residents of Massachusetts for no less than 12 months prior to application
- Lower application fee.



CURRENT TIMELINE

April 1, 2018	<ul style="list-style-type: none">• Begin certification application for “priority applicants,” which include Medical Marijuana Treatment Centers and “Economic Empowerment Applicants”
April 15, 2018	<ul style="list-style-type: none">• Begin accepting license applications from certified “priority applicants.” All license types available.
May 1, 2018	Open applications for: <ul style="list-style-type: none">• Cultivation• Microbusiness• Craft cooperatives• Independent Testing Laboratories• Laboratory Agents
June 1, 2018	Open applications for: <ul style="list-style-type: none">• Retail• Product manufacturers• Transport

TYPES OF PRIORITY APPLICANTS

Priority Applicants:

- Medical Marijuana Treatment Center with a final or provisional certificate of registration in good standing with the Department of Public Health (or Commission), as applicable.

Economic Empowerment Applicant:

- An applicant who meets certain criteria demonstrating experience in or business practices that promote economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for offenses under G.L. c.94C



LICENSING PROCESS

Application of Intent

- Incorporation
- Capital
- Bond
- Property Interest
- *Municipal Information*
- Positive Impact on DIA

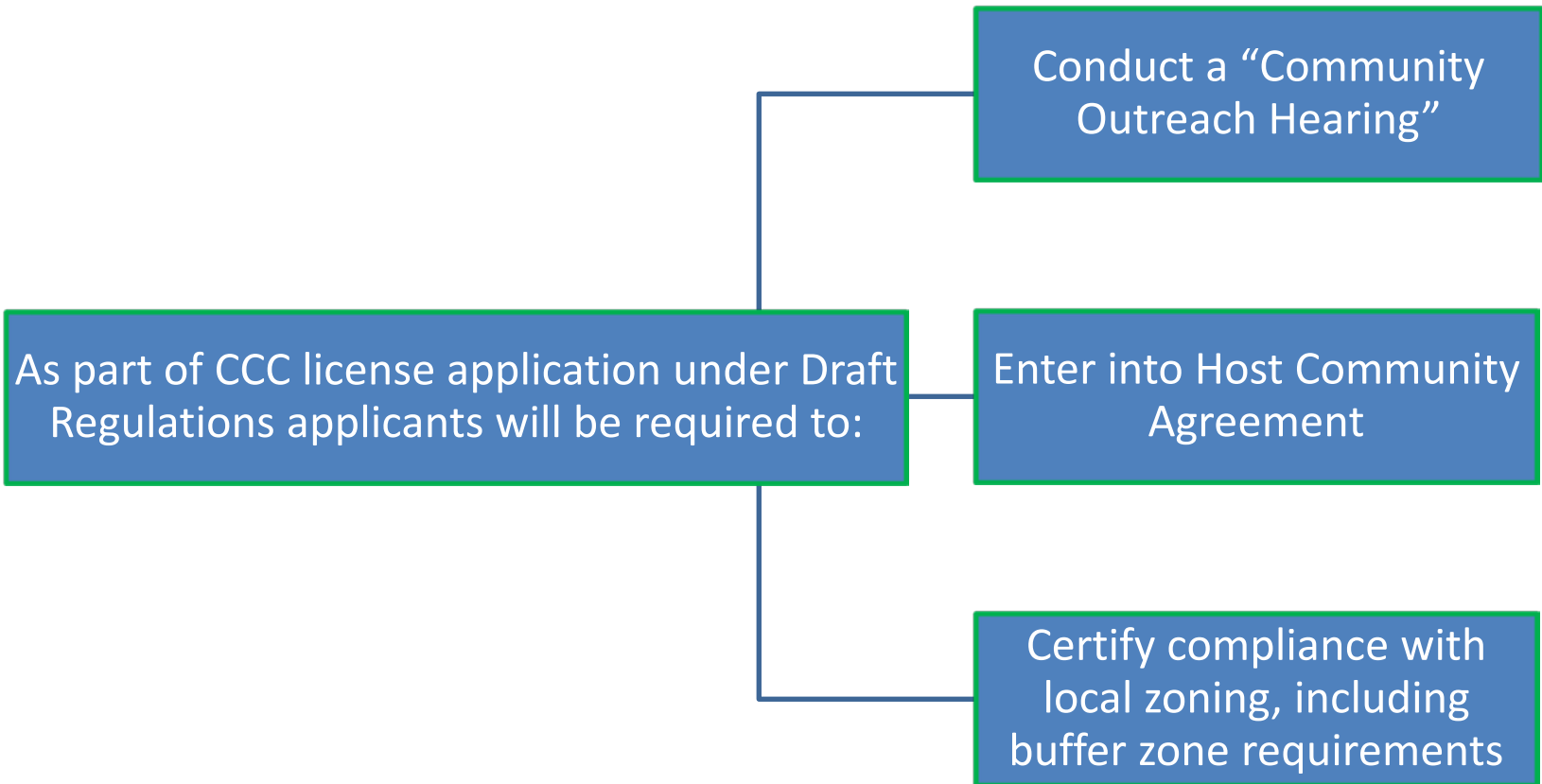
Background Check

- All executives, managers, persons or entities with direct or indirect authority over the management policies, cultivation or security operations
- Fingerprint check
- Nationwide civil & criminal

Management and Operations Profile

- Certificate of Good Standing with SoS and DOR
- Business Plan
- Operating Policies and Procedures
- Training Plan

MUNICIPAL ROLE IN LICENSING BY THE CANNABIS CONTROL COMMISSION



COMMUNITY IMPACT MEETING

Draft CCC Regulations require an Applicant to hold a Community Outreach Meeting within six (6) months prior to submission of license application to CCC

Notice

Hearing must be advertised at least seven (7) calendar days prior to date of hearing

Copy of hearing notice filed with town or city clerk, planning board, contracting authority for the municipality, local licensing authority for adult use marijuana (if applicable)

Copy of hearing notice must be sent to abutters

Content of Hearing

Discussions of type(s) of Marijuana Establishment to be located at proposed address

Security information

Steps taken by Applicant to prevent diversion to minors

Plan for positive community impact

Information to demonstrate location will not be a nuisance

Requirement for Q&A from community members to representatives of Marijuana Establishment

HOST COMMUNITY AGREEMENTS

Host Community Agreements

The Act requires that both recreational marijuana establishments and medical marijuana treatment centers enter into a HCA with host communities and allows for a “community impact fee.”

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- The community impact fee must be “reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment
 - The community impact fee shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or be effective for longer than 5 years.”
 - The Act does not expressly preclude renegotiation of a HCA at the end of the initial five year term.
 - The municipality is required to document its costs.
 - Applicant must certify to the CCC that it has entered into a HCA as part of application to CCC.

ZONING BYLAW/ORDINANCE COMPLIANCE

Applicants must submit to the CCC documentation that a proposed site is compliant with the bylaws/ordinances *in effect* at the time of the application



Once application filed with CCC is deemed complete, the CCC will notify the municipality



The municipality has 60 days from date of correspondence from CCC to notify the CCC that the applicant is not in compliance with local ordinance/bylaw



If no communication is sent from the municipality, the Applicant will be deemed in compliance

ZONING BYLAWS/ORDINANCES

Buffer Zone Requirements

Under the Act, a Marijuana Establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12 (measured from lot lines of impacted properties).

Municipalities may adopt an ordinance or bylaw that reduces that distance requirement

NOTE: This buffer is less restrictive than the default buffer zone imposed by DPH on medical marijuana treatment centers:

“Absent local siting requirements, MMTCs shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate.”

105 CMR 725.110(A)(14)

LIMITATION OR PROHIBITION

Pursuant to G.L. c.94G, §3, a municipality may prohibit or limit recreational marijuana establishments by bylaw or ordinance with respect to the following:

prohibit the operation of **one or more types** of marijuana establishments

limit the number of marijuana retailers **to fewer than 20 percent** of the number of retail off-premises alcoholic beverage licenses issued under G.L. c.138 by the municipality

limit the number of any type of marijuana establishment to **fewer than the number of medical marijuana treatment centers** registered to engage in the same type of activity in the municipality.

LIMITATION OR PROHIBITION - PROCESS

If a municipality voted in favor of Question 4 on November 8, 2016 [i.e., a majority of voters casting ballots voted “yes” on the question], then two votes must be taken before a prohibiting or limiting bylaw/ordinance can be effective:

- (1) it must be approved by the voters by ballot at an annual or special election, and
- (2) the ordinance or bylaw must be approved by the local legislative body.

LIMITATION OR PROHIBITION



Municipalities may impose bylaw limitations on marijuana retail establishments amounting to 20% or higher than the number of package store licenses issued without the two step ballot/bylaw process

ON-SITE SOCIAL CONSUMPTION

Petition for Question on State Ballot to Social Consumption

Requirements:

Petition of not fewer than 10 percent of the number of the voters of the city or town voting at the state election preceding the filing of the petition (G.L. c.94G, s.3(b))

- The ballot question must be presented to the voters of the city or town at the next biennial state election to allow the consumption of marijuana and marijuana products on the premises where they are sold.
- Petition must conform to provisions of General Laws relating to initiative petitions at the municipal level
- Likely requirement will be for petition to be filed with the Secretary of the Commonwealth no later than the first Wednesday in August.
- This is the ONLY procedure whereby a municipality can allow social consumption.

ADDITIONAL LOCAL LICENSING

- Municipalities may impose local licensing requirements in addition to zoning regulation.
 - Any licensing fee should be related to cost of administering licensing program.
- Board of Health may adopt local regulations pertaining to issues within the purview of local boards of health.



State Licensing Process

Background Check Packet includes:

- A CORI check form;
- Requirement for fingerprinting that enables a multi-state criminal history check;
- Narrative information from individuals listed on the application as executives, members, close associates or managers.





State Licensing Process

Mandatory Disqualifications:

- ❖ Applicants with Open or Unresolved Criminal Proceedings at the time of application but excluding solely marijuana-related proceedings under M.G.L. c. 94C, §34;
- ❖ Applicants with Open or Unresolved Marijuana Business-Related violations in MA or in another jurisdiction that have been unresolved for 6 months or the nature of which would necessarily result in a determination of unsuitability;
- ❖ Trafficking conviction for drugs other than marijuana; or
- ❖ Failure to register as a sex offender.
- ❖ **Statutory Restriction:** convictions for solely marijuana-related offenses are NOT to be a disqualifier for licensure.



Operational Requirements

- All marijuana and marijuana products must be handled in compliance with sanitary requirements.
- Edible marijuana products are not considered food under the law, but must be handled in compliance with sanitary requirements for wholesale manufacturing, retail sale and transportation of food.
- All marijuana and marijuana products must be tested in compliance with the testing protocols established by the Department of Public Health.
- All marijuana and marijuana products must be tracked from seed to sale in interoperable database.
- \$5,000 bond or cash to be posted in the event of the need to destroy cannabis or cannabis products
- Required compliance with existing state laws on cultivation, waste disposal, etc.
- Energy conservation and environmental requirements.



Security Requirements

- ❖ Cultivators, marijuana product manufacturers, independent laboratories and research facilities must restrict access to only authorized employees and visitors;
- ❖ All inventory must be tracked on the interoperable system set by the Commission;
- ❖ Must be alarmed;
- ❖ Visitors must be logged;
- ❖ Marijuana and marijuana products must be stored in limited access areas;
- ❖ 24 hour video surveillance is required;
- ❖ Must be sufficiently lit to allow readable image to be captured;
- ❖ Security plan filed with local law enforcement.





Security Requirements

Access to Retail Stores

- ❖ Retailers must check government issued ID to demonstrate someone is 21 years of age or older before allowing anyone access to marijuana establishment for adult use.
- ❖ For co-located medical marijuana dispensaries and adult use marijuana establishments, retailers must check government issued ID to demonstrate someone is 21 years of age OR check that someone has a DPH Program ID card showing they are a patient and a government ID showing they are 18 years of age or older.





Cultivation and Processing Requirements

- **Cultivation may be indoor or outdoor**
 - Must be in designated area that is not visible from public place without aid of binoculars, aircraft or other special aids
- **Cultivation and production must satisfy minimum energy efficiency and equipment standards established by the Commission and environmental laws relating to water quality, solid and hazardous waste management.**
 - CCC will establish “best management practices” to reduce energy and water usage, engage in energy conservation and mitigate environmental impacts
- **Production of edible marijuana products must be prepared, handled and stored in compliance with the sanitation requirements of 105 CMR 500.00 (Good Manufacturing Practices for Food) and with requirements for food handlers**
- **Limitations on edible products:**
 - May not take the form of a shape of human, animal or fruit or shape that bears likeness or characteristics of a realistic or fictional human, animal or fruit, including artistic, caricature, or cartoon renderings
 - May take the form of geometric shapes and be “fruit flavored”

Marketing, Advertising, Branding

Permitted Practices

- ❖ CAN have logo, but logo CAN'T use medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in this logo;
- ❖ Sponsorship of a charitable, sporting or similar event, but marketing limit to audience expected to be 85% 21 years and older according to data;
- ❖ Locked display cases inside each establishment;
- ❖ Any marketing shall include statement "Please Consume Responsibly" and
- ❖ at least 2 other warnings from menu of choices;
- ❖ All marketing must include warning developed by DPH.





Marketing, Advertising, Branding

Prohibited Practices

- ❖ Deceptive, false, misleading, untrue, or misleading marketing;
- ❖ No TV, radio, internet or other electronic communication, billboard or other outdoor advertising, or print publication unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older as determined by data;
- ❖ Using statements, designs, representations, pictures or illustrations that portray anyone less than 21 years of age;
- ❖ mascots, cartoons, brand sponsorships and celebrity endorsements deemed to appeal to a person less than 21 year of age;
- ❖ false or misleading statements concerning other licensees and the conduct and products of such other licensees;





Marketing, Advertising, Branding

Prohibited Practices (cont'd)

- ❖ Promotional items prohibited by the Commission, including, but not limited to, giveaways, coupons, or “free” or “donated” marijuana;
- ❖ Representations of safety, curative or therapeutic effects, other than labeling required pursuant by regulations, unless supported by evidence or data;
- ❖
- ❖ Installation of any neon signage or any illuminated external signage that fails to comply with all local ordinances and requirements;
- ❖ Installation of any external signage that is illuminated beyond the period of 30 minutes before sundown until closing;
- ❖ Use of vehicles equipped with radio or loud speakers;





Marketing, Advertising, Branding

Prohibited Practices (cont'd)

- ❖ The use of radio or loud speaker equipment in any Marijuana Establishment for advertising;
- ❖ Advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85 per cent of the audience is reasonably expected to be 21 years of age or older, as determined by data;
- ❖ Operation of any website of a Marijuana Establishment that fails to verify that the entrant is at least 21 years of age;
- ❖ Use of unsolicited pop-up advertisements on the internet;





Marketing, Advertising, Branding

Prohibited Practices (cont'd)

- ❖ Marketing in or on public or private vehicles, at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues, including, wrapping vehicles;
- ❖ Marketing marijuana or marijuana products, on clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;
- ❖ Signs or other printed matter advertising any brand or kind of marijuana product displayed on the exterior or interior of any licensed premises wherein marijuana products are not regularly and usually kept for sale;
- ❖ Marketing price of marijuana or marijuana products, except they can have list in store and on website;





Marketing, Advertising, Branding

Prohibited Practices (cont'd)

- ❖ Display of marijuana or marijuana products so as to be clearly visible to a person from the exterior of a Marijuana Establishment;
- ❖ Any marketing that fails to contain a health warning by DPH;
- ❖ Improper or objectionable nature, including obscene or suggestive statements.





Labelling Requirements

Comprehensive labelling requirements, including:

- ❖ Requirements specified for type of product;
- ❖ Name and contact information of creator;
- ❖ Cannabinoid profile, as well as ingredients;
- ❖ Warning re: allergen;
- ❖ DPH warning;
- ❖ Graphic symbol indicating product contains marijuana and that it is dangerous to children;
- ❖ Serving size;
- ❖ Batch and serial number;
- ❖ Confirmation of testing;
- ❖ Directions for use.



Packaging Requirements

Comprehensive packaging requirements:

- Certified by independent third party to be child-resistant;
- Resealable;
- Opaque, plain design;
- No neon colors;
- No resemblance to existing non-marijuana consumer products;
- No designs, brands or names typically marketed to minors;
- No symbols or celebrities that are commonly used to market products to minors;
- No images of minors; or
- No words that refer to products that are commonly associated with minors or marketed by minors.



Packaging Requirements

Comprehensive packaging requirements (cont'd):

- Products with multiple servings must say “INCLUDES MULTIPLE SERVINGS”;
- Consumer must be able to easily perform the division into single servings;
- Edible Marijuana Products in a solid form shall be easily and permanently scored to identify individual servings;
- If a product is unable to be easily and permanently scored to identify individual servings, the it shall be packaged in a single serving size;



Packaging Requirements

Comprehensive packaging requirements (cont'd):

- Packaging for marijuana product beverages shall be packaged solely in a single serving size. Multiple serving marijuana product beverages are strictly prohibited for sale;
- Each single serving of an Edible MIP contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates that the single serving is a Marijuana Product;
- Serving size shall be determined by the processor but in no instance shall an individual serving size of any MARIJUANA PRODUCT contain more than five (5) milligrams of delta-nine-tetrahydrocannabinol (Δ 9-THC).





Special Regulations for Nantucket and Martha's Vineyard

- (1) To the extent permitted by law, Marijuana Establishments operating from locations in the Counties of Dukes County and Nantucket (island counties) may operate in full compliance with 935 CMR 500.000.
- (2) If Marijuana Establishments operating from locations in the island counties are prevented from operating in full compliance with 935 CMR 500.000 by operation of law, they are not required to utilize Independent Testing Laboratories until such time as a laboratory is located on the island where the Marijuana Establishment is located or the establishment can transport marijuana product to the mainland of Massachusetts.
- (3) If Marijuana Establishments operating from locations in the island counties are prevented from utilizing Independent Testing Laboratories by operation of law, they are required to test marijuana products in a manner that is not unreasonable impracticable but also adequately protects the public health in the opinion of the Commission. Such testing may include:
 - (a) a modified on-premises testing system approved by the Commission if the label on any marijuana or Marijuana Product so tested discloses in capital letters: WARNING: LIMITED TESTING FOR CONTAMINANTS AND PESTICIDES;
 - (b) a testing facility in the island counties that does not meet the criteria for an Independent Testing Laboratory, but is approved by the Commission for testing by Marijuana Establishments located in the island counties; or
 - (c) Such other testing system approved by the Commission.

QUESTIONS?



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